IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

S.T.R. No. 95 of 2003
(Old No. 1515/91)

Commissioner of Sales Tax
U.P. Lucknow. .....Applicant/Revisionist

Vs.

S/S East Hope Town
Prem Nagar, Dehradun. .....Opposite Party

Learned Standing Counsel for the revisionist.

Hon'ble Prafulla C. Pant, J.

Heard learned Standing Counsel.

This revision has been moved under Section 11(1) of U.P. Sales Tax Act, 1948, and is directed against the judgment and order dated 18.07.1991, passed by Sales Tax Tribunal, Dehradun. This revision was filed way back in the year 1991 and is received by transfer from Allahabad High Court, under Section 35 of U.P. Reorganisation Act, 2000.

The following question of law is involved in this revision:-

"Whether the Sales Tax Tribunal was legally justified to hold that sales of tea produced and manufactured by the assessee was exempted under Central Sales Tax Act?"

From the record, it appears that the assessee is tea growing/producing company. It is argued on behalf of the revisionist, by the learned Standing Counsel that since the leaves of tea undergo grading and roasting, before sale, as such they are manufactured product and cannot be said to be an agricultural produce. It that is accepted, then

assessee becomes a dealer with the definition of U.P. Sales Act, 1948. However, in Dehradun, Tea Company Vs. Commissioner Sales Tax Act, UPTC 1980 Pg. 459, it has been held that, that the green leaves without grading and processing, has no market value, as unless it is graded and processed, the green leaves get rotten. In view of that position, the tea, graded and roasted by the self producing tea company, remains the agricultural produce. That being so, the tea producing company is not the dealer for the purposes of the Act. Also, in view of the principle laid down in Deputy Commissioner Vs. Sravan Core Rubber and tea company 1967 Volume 20 STC Pg. 520, it has been held that agriculturist cannot be treated to be the dealer for the purposes of the Sales Tax Act. The tea even after being graded and processed, remains tea and it is not changed into a new item.

In the circumstances, this Court finds that there is no error in the impugned judgment of the Sales Tax Tribunal, as such, the aforesaid question of law is answered in favour of the assessee. The revision is accordingly dismissed in limine.

(Prafulla C. Pant, J.)

Dt: 31.03.2006
Sweta